

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

SEPRACOR, INC.,	)	
	)	
Plaintiff, Counterclaim-	)	
Defendant,	)	C.A. No. 06-113-KAJ
	)	
v.	)	
	)	
DEY, L.P. AND DEY, INC.,	)	
	)	
Defendants, Counterclaim-	)	
Plaintiffs.	)	

**DEY’S MOTION TO STRIKE  
PLAINTIFF’S ALLEGATIONS CONCERNING WILLFUL INFRINGEMENT**

Pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, Defendants Dey, L.P. and Dey, Inc. (collectively “Dey”) respectfully move this Court to strike the allegations concerning willful infringement in paragraphs 25 and 26, and the paragraph lettered “D” of the Complaint (D.I. 1).

In support of this motion, Dey relies on its Memorandum filed concurrently. Accordingly, Dey respectfully requests that this Court grant its Motion to Strike Plaintiff’s Allegations Concerning Willful Infringement. A proposed order is attached hereto.

ASHBY & GEDDES

*/s/ John G. Day*

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Dated: November 7, 2006  
174916.1

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FOR THE DISTRICT OF DELAWARE

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Plaintiff, Counterclaim-	)	
Defendant,	)	C.A. No. 06-113-KAJ
	)	
v.	)	
	)	
DEY, L.P. AND DEY, INC.,	)	
	)	
Defendants, Counterclaim-	)	
Plaintiffs.	)	

**ORDER**

Upon consideration of Defendant Dey, L.P. and Dey, Inc.'s Motion to Strike, IT IS  
HEREBY ORDERED on this \_\_\_\_ day of \_\_\_\_\_ that

- (i) Defendant's Motion to Strike is GRANTED; and
- (ii) Plaintiff's allegations concerning willful infringement in paragraphs 25 and 26,  
and paragraph lettered "D" of the Complaint are hereby STRICKEN.

\_\_\_\_\_  
United States District Judge

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1**

I hereby certify that counsel have discussed the subject matter of the attached motion, but that an agreement could not be reached.

*/s/ John G. Day*

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John G. Day

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of November, 2006, the attached **DEY'S MOTION TO STRIKE PLAINTIFF'S ALLEGATIONS CONCERNING WILLFUL INFRINGEMENT** was served upon the below-named counsel of record at the address and in the manner indicated:

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**HAND DELIVERY**

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**VIA FEDERAL EXPRESS**

*/s/ John G. Day*

\_\_\_\_\_  
John G. Day